

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

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| In the matter of the proposed |) | NOTICE OF PUBLIC HEARING |
| amendment of ARM 24.21.411, |) | ON PROPOSED AMENDMENT, |
| the proposed adoption of |) | ADOPTION, AND REPEAL |
| NEW RULE I, and the proposed |) | |
| repeal of ARM 24.21.414, all |) | |
| related to the apprenticeship and |) | |
| training program |) | |

TO: All Concerned Persons

1. On September 29, 2006, at 10:00 a.m., the Department of Labor and Industry (department) will hold a public hearing in the first floor conference room (room 104) of the Walt Sullivan Building, 1327 Lockey Ave., Helena, Montana, to consider the proposed amendment, adoption, and repeal of the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., September 25, 2006, to advise us of the nature of the accommodation that you need. Please contact the Apprenticeship and Training Program, Workforce Program and Oversight Bureau, Workforce Services Division, Department of Labor and Industry, Attn: Mark Maki, P.O. Box 1728, Helena, Montana 59624-1728; telephone (406) 444-3556; fax (406) 444-3037; TDD (406) 444-5549; or e-mail mmaki@mt.gov.

3. The rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

24.21.411 MINIMUM GUIDELINES FOR REGISTRATION OF PROGRAMS

(1) through (1)(g) remain the same.

(h) Provision for the payment of wages that are consistent with the requirements of ~~ARM 24.21.414~~ 39-6-108, MCA, if the apprenticeship is in a building construction occupation.

(i) through (s) remain the same.

AUTH: 39-6-101, MCA

IMP: 39-6-106, 39-6-108, MCA

REASON: It is reasonably necessary to amend the rule in order to implement the repeal of ARM 24.21.414 provided for by Chapter 538, L. of 2005 (Senate Bill 217) and to insert a reference to the statute enacted by that legislation.

4. The rule proposed to be adopted provides as follows:

NEW RULE I APPROVAL FOR APPRENTICESHIP PROGRAM WHEN
EMPLOYER IS PARTICIPANT IN COLLECTIVE BARGAINING AGREEMENT

(1) Pursuant to 29 CFR 29.12, this rule applies when both of the following criteria are met:

(a) a collective bargaining agreement, apprenticeship standards, or other instrument governing the operation of an apprenticeship program, provides for participation by a union in any manner in the formation or operation of the substantive matters of an apprenticeship program; and

(b) an employer or employers' association that is a signatory to or participant in that collective bargaining agreement, apprenticeship standard, or other such instrument, is proposing a new apprenticeship program for registration by the department.

(2) The employer or employers' association shall simultaneously furnish to the department and the union a copy of its application for registration of the proposed apprenticeship program and a copy of its proposed apprenticeship program standards.

(3) Where union participation is exercised in the program, the union must submit written acknowledgment to the department of the union's agreement with, no objection to, or other comment on the proposed new registration.

(4) Where union participation is not exercised in the program, the union may submit written acknowledgment to the department of the union's agreement with, no objection to, or other comment on the proposed new registration.

(5) The union has 30 days within which to submit its comments under (3) and (4). The department may not approve a new program until after the 30-day deadline has passed. The department may take into account the comments of the union when deciding whether or not to approve a proposed apprenticeship program.

AUTH: 39-6-101, MCA

IMP: 39-6-101, MCA

REASON: There is reasonable necessity to adopt NEW RULE I in response to demands for such a rule by the United States Department of Labor. In the fall of 2005, the United States Department of Labor reviewed the department's Apprenticeship and Training Program for compliance with federal law. This review indicated that Montana does not have a rule that implements the provisions of 29 CFR 29.12(10)(b). The federal regulation requires that when a union is a participant in a collective bargaining agreement, jointly-managed apprenticeship standards, or other instrument related to an apprenticeship program, the union must be given an opportunity to object if a new program in the same or like occupation is proposed by an employer or employers' association who is a participant in the same collective bargaining agreement, jointly-managed apprenticeship standards, or other instruments. This rule will also ensure compliance with National Labor Relations Board requirements by affording due process to unions when an employer wishes to register a new apprenticeship program. In order for the Montana Apprenticeship and Training Program to continue to maintain its status as the official apprenticeship registration agency in Montana for both state and federal purposes, the department is proposing the above new rule. Failure to adopt an appropriate rule could lead to

loss of the department's status as the federally recognized apprenticeship registration agency for Montana.

5. The rule proposed for repeal is as follows:

24.21.414 WAGE RATES TO BE PAID IN BUILDING CONSTRUCTION OCCUPATIONS found at ARM page 24-1373.

AUTH: 39-6-101, MCA

IMP: 39-6-101, 39-6-106, MCA

REASON: ARM 24.21.414 set wages for apprentices in construction occupations. There is reasonable necessity to repeal ARM 24.21.414 in order to implement Chapter 538, L. of 2005 (Senate Bill 217), which specifically repealed this rule. The matters previously addressed by this rule will now be addressed by 39-6-108, MCA.

6. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to:

Mark Maki, Supervisor
Workforce Services
Statewide Workforce Program and Oversight Bureau
Department of Labor and Industry
P.O. Box 1728
Helena, Montana 59624-1728

by facsimile to (406) 444-3037; or by e-mail to mmaki@mt.gov, and must be received by no later than 5:00 p.m., October 6, 2006.

7. An electronic copy of this Notice of Public Hearing is available through the department's web site at <http://dli.state.mt.us/events/calendar.asp>, under the Calendar of Events, Administrative Rules Hearings section. The department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that a person's difficulties in sending an e-mail do not excuse late submission of comments.

8. The department maintains lists of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the mailing lists shall make a written request which includes the name and mailing address of the person to receive notices and any specific topic or topics over which the department has rulemaking authority. Such written requests may be delivered to Mark Cadwallader, 1327 Lockett St., Room 412, Helena,

Montana, mailed to Mark Cadwallader, P.O. Box 1728, Helena, MT 59624-1728, faxed to the office at (406) 444-1394, e-mailed to mcadwallader@mt.gov, or made by completing a request form at any rules hearing held by the agency.

9. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled.

10. The Hearings Bureau of the Centralized Services Division of the department has been designated to preside over and conduct the hearing.

/s/ MARK CADWALLADER

Mark Cadwallader
Alternate Rule Reviewer

/s/ KEITH KELLY

Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND
INDUSTRY

Certified to the Secretary of State August 28, 2006